

EXHIBIT 19



M E M O R A N D U M

To: Akif Uzman, Ph.D.
Interim Senior Vice President for Academic and Student Affairs and Provost, University of Houston-Downtown

From: Darren G. Gibson
Littler Mendelson P.C.

CC: Lauri S. Ruiz
Title IX/Equal Opportunity Officer, University of Houston-Downtown

Date: May 19, 2022

Re: Recommendation for interim action regarding discrimination and harassment complaint against Dean Charles E. Gengler

On April 28, 2022, Dr. Carlos Gooden, the Executive Director, Graduate Business Programs Services in the Marilyn Davies College of Business (the “College”), submitted a formal complaint of discrimination and harassment. In particular, Dr. Gooden alleges that Dean Charles E. Gengler engaged in a series of race-based and sex-based incidents, insults, derogatory comments, denigrating jokes, microaggressions, and publicly embarrassing statements directed towards Dr. Gooden and others from October 2021 to April 2022. Dr. Gooden’s complaint includes a detailed description of thirty-eight separate incidents reflecting Dean Gengler’s alleged discriminatory and harassing behavior.¹ Dr. Gooden further alleges that Dean Gengler’s conduct violated the University’s Anti-Discrimination Policy, SAM 01.D.07 (the “Anti-Discrimination Policy”), and Sexual Misconduct Policy, SAM 01.D.08 (the “Sexual Misconduct Policy”).

The Anti-Discrimination Policy and the Sexual Misconduct Policy both direct the University to consider interim and supportive measures upon receipt of a formal complaint to provide for a safe overall educational or working environment while the complaint is investigated and adjudicated.² In addition, Texas law expressly authorizes the University to place employees on paid administrative leave during an investigation of misconduct, and such authority is reflected in applicable University policy.³ Based on my review of the formal complaint submitted by Dr. Gooden against Dean Gengler, as well as information relating to prior allegations of misconduct by Dean Gengler, I recommend that Dean Gengler be placed on Leave During Agency Investigation. This recommendation is based on Dean Gengler’s history of concerning conduct towards African American employees, as well as the extent and severity of the allegations set forth in Dr. Gooden’s complaint.

¹ Exhibit 1, Formal Complaint and Written Statement.

² Anti-Discrimination Policy, Appendix B § 4; Sexual Misconduct Policy § 9.

³ TEX. GOVT. CODE § 661.923; Types of Employee Leave Policy SAM 02.D.04 § 6.24; Sexual Misconduct Policy SAM 01.D.08 § 9.2.2.

In 2019 and 2020, employees of the University submitted two separate complaints alleging that Dean Gengler made offensive, race-based comments to African American staff members, including: (i) sending an email with the subject “riots in the streets” in which he stated, “the search committee is threatening lynchings and a coup”; (2) stating that he had let African American staff members “out of their cages” to attend a meeting; and (3) stating that he hoped a planned community protest around racial injustice would be “civilized.”⁴ While the alleged comments were not in dispute, the conduct was found to be insufficiently severe or pervasive to constitute prohibited harassment under the Anti-Discrimination Policy. In each instance, Dean Gengler was counseled regarding his behavior, with EOS recommending that Dean Gengler receive additional training in 2019.

In the current case, the formal complaint from Dr. Gooden alleges behavior consistent with these prior complaints, but on a more severe and pervasive scale. Furthermore, Dean Gengler supervises not only Dr. Gooden, but also numerous witnesses identified in Dr. Gooden’s complaint, who are alleged to have witnessed and been subject to many of the incidents described by Dr. Gooden. Dr. Gooden also alleges that prospective students and current UHD students witnessed or were subject to many of the alleged incidents (*see, e.g.*, incidents #7, #13, #14, #27, #28, #30, #35). In short, the allegations in the complaint raise concerns regarding Dean Gengler’s behavior and professionalism towards Dr. Gooden and the broader UHD community.

In my experience of investigating allegations against university leaders who oversee large organizations (such as a dean or a head football coach), I have found that many witnesses who report up through a respondent in leadership often feel threatened by their participation as a witness and are unwilling to share relevant information regarding due to fear of retaliation and a negative impact on their career. I have further found that placing the respondent on leave during the investigation increases the likelihood that witnesses will be more forthcoming with relevant information.

Given all of these factors, I recommend Dean Gengler be placed on Leave During Agency Investigation during the course of our investigation to protect the integrity of the investigation, avoid the risk of any future conduct consistent with the allegations, and ensure that witnesses free to fully participate in the investigation. To the extent we obtain evidence indicates that such leave is unwarranted or unnecessary to achieve these objectives, we will reexamine our recommendation at that time. In making this recommendation, we are not presuming any particular outcome of the investigation or shifting the burden on Dean Gengler to disprove the allegations. Rather, the findings of the investigation will be based on a preponderance of the evidence, and the allegations will only be substantiated if it is more likely than not that the respondent engaged in a policy violation.

I would also recommend issuing mutual no-contact orders to Dean Gengler and Dr. Gooden to ensure that there is no further contact between those two individuals during the course of the investigation. Such no-contact orders between the parties are relatively standard in these types of investigations.

I am happy to discuss these recommendations further.

⁴ Exhibit 2, Report of Findings, August 12, 2019; Exhibit 3, Memorandum to File, December 29, 2020.